

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 6/29/2020
--

-----	X	
	:	
ERNESTINE LAWRENCE,	:	
	:	
Plaintiff,	:	
	:	
-against-	:	18-CV-12317 (VEC)
	:	
	:	<u>ORDER</u>
COMMISSIONER OF SOCIAL SECURITY,	:	
	:	
Defendant.	:	
-----	X	

VALERIE CAPRONI, United States District Judge:

Plaintiff Ernestine Lawrence brings this action pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), seeking review of the denial of her application for disability insurance benefits (“DIB”). *See* Compl., Dkt. 1. The parties have cross-moved for judgment on the pleadings. *See* Dkts. 21, 27. On June 10, 2020, Magistrate Judge Aaron issued a Report and Recommendation (“R&R”), recommending that Plaintiff’s motion be granted, that the Commissioner’s motion be denied, and that the case be remanded for further proceedings. *See* R&R, Dkt. 30. Neither party filed timely objections. For the following reasons, Plaintiff’s motion is GRANTED, Defendant’s cross-motion is DENIED, and the case is REMANDED for further proceedings consistent with Magistrate Judge Aaron’s R&R.

DISCUSSION

In reviewing final decisions of the Social Security Administration (“SSA”), courts “conduct a plenary review of the administrative record to determine if there is substantial evidence, considering the record as a whole, to support the Commissioner’s decision and if the correct legal standards have been applied.” *McIntyre v. Colvin*, 758 F.3d 146, 149 (2d Cir.

2014) (quoting *Kohler v. Astrue*, 546 F.3d 260, 265 (2d Cir. 2008)). “‘Substantial evidence’ is ‘more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.’” *Selian v. Astrue*, 708 F.3d 409, 417 (2d Cir. 2013) (per curiam) (quoting *Richardson v. Perales*, 402 U.S. 389, 401 (1971)).

In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). To accept those portions of the report to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *King v. Greiner*, No. 02-CV-5810, 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009) (citation omitted); *see also Wilds v. United Parcel Serv. Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

Careful review of Magistrate Judge Aaron’s R&R reveals that there is no clear error in its conclusions. As the R&R explains, the Administrative Law Judge violated the treating physician rule by failing to provide good reasons for assigning little weight to the opinions of Plaintiff’s treating physician. R&R at 24-26. Accordingly, the Court adopts the R&R in full.


CONCLUSION

For the foregoing reasons, Plaintiff’s motion for judgment on the pleadings is GRANTED. Defendant’s motion for judgment on the pleadings is DENIED. This case is REMANDED for further proceedings consistent with Magistrate Judge Aaron’s Report and Recommendation. *See* R&R at 23-26. Because the R&R gave the parties adequate warning, *see* R&R at 27, Defendant’s failure to file objections to the R&R precludes appellate review of this decision. *See Caidor v. Onondaga County*, 517 F.3d 601, 604 (2d Cir. 2008).

The Clerk of Court is respectfully directed to terminate all open motions and close this case.

SO ORDERED.

Date: June 29, 2020
New York, NY



VALERIE CAPRONI
United States District Judge